

HINKLE ELKOURI LAW FIRM L.L.C.

**ORDINANCE NO. 46-833**

OF

THE CITY OF WICHITA, KANSAS

NOT TO EXCEED \$69,500,000  
CITY OF WICHITA, KANSAS  
TAXABLE INDUSTRIAL REVENUE BONDS  
SERIES VII, 2005  
(CESSNA AIRCRAFT COMPANY)



(Published in *The Wichita Eagle*, December 21, 2005)

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AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES VII, 2005 (CESSNA AIRCRAFT COMPANY), IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$69,500,000 FOR THE PURPOSE OF PURCHASING, ACQUIRING, CONSTRUCTING AND INSTALLING AN INDUSTRIAL AND COMMERCIAL FACILITY; AUTHORIZING EXECUTION OF A FIFTEENTH SUPPLEMENTAL TRUST INDENTURE BY AND BETWEEN THE CITY AND THE BANK OF NEW YORK TRUST COMPANY, N.A., ST. LOUIS, MISSOURI, AS TRUSTEE WITH RESPECT TO THE SERIES VII, 2005 BONDS; AUTHORIZING THE CITY TO LEASE SAID PROJECT TO CESSNA AIRCRAFT COMPANY; AUTHORIZING THE EXECUTION OF A FIFTEENTH SUPPLEMENTAL LEASE BY AND BETWEEN THE CITY AND CESSNA AIRCRAFT COMPANY; AUTHORIZING THE EXECUTION OF A BOND PURCHASE AGREEMENT BY AND BETWEEN THE CITY AND CESSNA AIRCRAFT COMPANY, AS PURCHASER OF THE BONDS; AND, AUTHORIZING EXECUTION OF A BILL OF SALE, TERMINATION AND RELEASE OF FOURTH SUPPLEMENTAL LEASE AND CANCELLATION, DISCHARGE AND RELEASE OF FOURTH SUPPLEMENTAL TRUST INDENTURE.

WHEREAS, the City of Wichita, Kansas (the "City" or "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, as amended (the "Act"), to acquire, renovate and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, and to enter into leases and lease-purchase agreements with any persons, firm or corporation for said facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities and to refund such revenue bonds previously issued; and

WHEREAS, the Issuer's Governing Body has heretofore: 1) expressed its intent to issue Taxable Industrial Revenue Bonds (The Cessna Aircraft Company), in the original aggregate principal amount not to exceed \$100,000,000, pursuant to a Letter of Intent dated February 5, 1991; 2) adopted an Ordinance on December 10, 1991 (the "1991 Ordinance") authorizing the Issuer to issue its Taxable Industrial Revenue Bonds (The Cessna Aircraft Company), in the original aggregate principal amount not to exceed \$100,000,000; 3) expressed its intent to issue Taxable Industrial Revenue Bonds (The Cessna Aircraft Company), in the original aggregate principal amount not to exceed an additional \$200,000,000, pursuant to a Letter of Intent dated December 15, 1992; 4) expressed its intent to issue Taxable Industrial Revenue Bonds (The Cessna Aircraft Company), in the original aggregate principal amount not to exceed an additional \$200,000,000, pursuant to a Letter of Intent dated December 3, 1996; and 5) expressed

its intent to issue Taxable Industrial Revenue Bonds (The Cessna Aircraft Company), in the original aggregate principal amount not to exceed an additional \$600,000,000, pursuant to a Letter of Intent dated June 8, 1999; all for the purpose of paying the cost of constructing, installing and equipping certain manufacturing facilities (the "Project"); and

WHEREAS, the Issuer has heretofore authorized the issuance of fourteen series of Taxable Industrial Revenue Bonds for the purpose of constructing, equipping and installing current or former portions of the Project, such Bonds designated as follows: (1) Series XII, 1991 (The Cessna Aircraft Company), in the original aggregate principal amount of \$30,000,000; (the "Series 1991 Bonds") (2) Series X, 1992 (The Cessna Aircraft Company), in the original aggregate principal amount of \$44,130,000; (the "Series 1992 Bonds") (3) Series VII, 1993 (The Cessna Aircraft Company), in the original aggregate principal amount of \$48,100,000 (the "Series 1993 Bonds"); (4) Series XV, 1994 (The Cessna Aircraft Company), in the original aggregate principal amount of \$44,800,000; (5) Series XIV, 1995 (The Cessna Aircraft Company), in the original aggregate principal amount of \$46,000,000; (6) Series XIII, 1996 (The Cessna Aircraft Company), in the original aggregate principal amount of \$54,000,000; (7) Series XVII, 1997 (The Cessna Aircraft Company), in the original aggregate principal amount of \$54,500,000; (8) Series XV, 1998 (The Cessna Aircraft Company), in the original aggregate principal amount of \$80,000,000; (9) Series XIV, 1999 (The Cessna Aircraft Company), in the original aggregate principal amount of \$64,860,000, (10) Series X, 2000 (Cessna Aircraft Company), in the original aggregate principal amount of \$96,300,000; (11) Series XIII, 2001 (Cessna Aircraft Company), in the original aggregate principal amount of \$102,500,000; (12) Series VIII, 2002 (Cessna Aircraft Company), in the original aggregate principal amount of \$94,500,000; (13) Series XI, 2003 (Cessna Aircraft Company), in the original aggregate principal amount of \$55,300,000; and (14) Series VIII, 2004 (Cessna Aircraft Company), in the original aggregate principal amount of \$51,800,000.

WHEREAS, pursuant to the 1991 Ordinance, the Issuer authorized (i) the execution and delivery of a Trust Indenture dated December 20, 1991 (the "1991 Indenture"), now by and between the Issuer and The Bank of New York Trust Company, N.A., St. Louis, Missouri as successor trustee to INTRUST Bank, N.A., Wichita, Kansas (the "Trustee"), which has since been supplemented and amended by Supplemental Indentures for the purpose of issuing and securing the above-referenced series of Bonds and (ii) the execution and delivery of a Lease Agreement dated December 20, 1991 (the "1991 Lease"), by and between the Issuer, as lessor, and the Cessna Aircraft Company (formerly The Cessna Aircraft Company), a Kansas corporation (the "Company"), as lessee, which has since been supplemented and amended by Supplemental Leases under which the proceeds of the above-described series of bonds were used to pay a portion of the costs of the Project; and

WHEREAS, the Series 1991 Bonds, Series 1992 Bonds, Series 1993 Bonds and Series 1994 Bonds no longer remain outstanding; and

WHEREAS, the Trustee has certified that the Series 1995 Bonds have been surrendered by the registered owner thereof for cancellation on January 1, 2006; and

WHEREAS, the Company desires to exercise its option to purchase that portion of the Project financed with the proceeds of the Series 1995 Bonds (the "1995 Project"); and

WHEREAS, the City hereby determines to waive the notice provisions of the Lease with respect to the Company's exercise of its option (as hereinafter defined) to purchase the 1995 Project and finds and determines it necessary and desirable to execute a Bill of Sale conveying such 1995 Project to the Company on or after January 1, 2006; and

WHEREAS, the City has heretofore and does hereby find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the City and the State of Kansas that the City issues its Taxable Industrial Revenue Bonds, Series VII, 2005 (Cessna Aircraft Company) in the original aggregate principal amount of not to exceed \$69,500,000 (the "Series 2005 Bonds") for the purpose of purchasing, acquiring, constructing and installing certain additions to the Project (the "2005 Additions"); and

WHEREAS, the Series 2005 Bonds are more fully described in the Fifteenth Supplemental Trust Indenture by and between the Issuer and the Trustee, which Fifteenth Supplemental Trust Indenture further supplements and amends the 1991 Indenture (the 1991 Indenture as supplemented and amended, including by the Fifteenth Supplemental Trust Indenture, being referred to herein as the "Indenture"), and in the Fifteenth Supplemental Lease hereinafter authorized; and

WHEREAS, the Project shall be leased by the City to the Company pursuant to the Fifteenth Supplemental Lease by and between the Issuer and the Company, which Fifteenth Supplemental Lease further supplements and amends the 1991 Lease (the 1991 Lease as supplemented and amended, including by the Fifteenth Supplemental Lease, being referred to herein as the "Lease"); and

WHEREAS, the real property upon which the 2005 Additions are located shall be leased to the City from the Company pursuant to a certain Site Lease and Subordination Agreement dated December 20, 1991, by and between the City, as lessee, and the Company, as lessor, as supplemented and amended by a First Supplemental Site Lease and Subordination Agreement dated December 17, 1993, a Second Supplemental Site Lease and Subordination Agreement dated July 1, 1997, a Third Supplemental Site Lease and Subordination Agreement dated December 22, 2000, and a Fourth Supplemental Site Lease and Subordination Agreement dated December 21, 2001; and

WHEREAS, the Series 2005 Bonds and the interest thereon shall not constitute an indebtedness of the City of Wichita, Kansas, within the meaning of any constitutional provision or statutory limitation, shall not constitute nor give rise to a pecuniary liability of the City, nor shall any Series 2005 Bond or the interest thereon be a charge against the general credit or taxing powers of the City (because, under the terms of this Ordinance, the Series 2005 Bonds are not general obligations of the City and are payable solely from certain fees, rentals, revenues and

other amounts derived by the City pursuant to the Lease and, under certain circumstances, from the proceeds of the Series 2005 Bonds and insurance and condemnation awards); and

WHEREAS, pursuant to the Indenture, the Series 2005 Bonds shall be equally and ratably secured and on a parity with the Series 1995 Bonds, the Series 1996 Bonds, the Series 1997 Bonds, the Series 1998 Bonds, the Series 1999 Bonds, the Series 2000 Bonds, the Series 2001 Bonds, the Series 2002 Bonds, the Series 2003 Bonds, the Series 2004 Bonds and any Additional Bonds (collectively referred to herein as the "Bonds") subject to any partial redemption or release of pledged property permitted by the Lease and Indenture; and

WHEREAS, the City further finds and determines that it is necessary and desirable in connection with the issuance of the Series 2005 Bonds: (1) to execute and deliver a Fifteenth Supplemental Trust Indenture dated as of December 22, 2005, with the Trustee, for the purpose of issuing and securing the Series 2005 Bonds as provided therein; (2) to execute and deliver a Fifteenth Supplemental Lease dated as of December 22, 2005, with the Company pursuant to which the City shall cause the 2005 Additions to be leased to the Company in consideration of payments of Supplemental Basic Rent, Supplemental Additional Rent and other charges provided for therein.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS AS FOLLOWS:

**Section 1. Definition of Terms.** All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Indenture and Lease.

**Section 2. Authority to Cause the 2005 Additions to be Purchased, Acquired, Constructed and Installed.** The City hereby finds and determines the 2005 Additions, if in being, would promote the welfare of the City, and is authorized to cause the 2005 Additions to be purchased, acquired, constructed and installed all in the manner and as more particularly described in the Fifteenth Supplemental Trust Indenture and in the Fifteenth Supplemental Lease hereinafter authorized.

**Section 3. Authorization of and Security for the Bonds.** There are hereby authorized and directed to be issued the City's industrial revenue bonds to be designated "City of Wichita, Kansas, Taxable Industrial Revenue Bonds, Series VII, 2005 (Cessna Aircraft Company)" in an original aggregate principal amount not to exceed \$69,500,000 for the purpose of paying the cost of purchasing, acquiring, constructing and installing the 2005 Additions. The Series 2005 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Indenture. The Series 2005 Bonds shall be equally and ratably secured and on a parity with the outstanding Bonds (subject to any partial redemption or release of pledged property permitted by the Lease and Indenture). The Series 2005 Bonds shall be special limited obligations of the City payable solely from the revenues derived by the City

pursuant to the Lease, or otherwise in connection with the Project. The Series 2005 Bonds shall not be general obligations of or constitute a pledge of the faith and credit of the City within the meaning of any constitutional or statutory provision and shall not be payable in any manner from tax revenues. The Series 2005 Bond shall be secured under the provisions of the Indenture and are authorized hereby.

**Section 4. Authorization of Fifteenth Supplemental Trust Indenture.** The City is hereby authorized to enter into the Fifteenth Supplemental Trust Indenture dated as of December 22, 2005, by and between the City and the Trustee under which the City shall pledge and assign to the Trustee, for the benefit of the holders of the Bonds, including the Series 2005 Bonds, the Trust Estate created thereby, all upon the terms and conditions set forth in the Indenture.

**Section 5. Lease of the 2005 Additions.** The City shall cause the 2005 Additions to be leased by the City to the Company pursuant to and in accordance with the Lease, as supplemented by the provisions of the Fifteenth Supplemental Lease, which is authorized hereby.

**Section 6. Authorization of Bond Purchase Agreement.** The Series 2005 Bonds shall be sold and delivered to Cessna Aircraft Company upon the terms and subject to the provisions of the Bond Purchase Agreement herein authorized dated as of December 23, 2005, by and between the City, and Cessna Aircraft Company, as Purchaser.

**Section 7. Authorization of Release Documents.** The City is hereby authorized to execute a Bill of Sale conveying the 1995 Project from the City to the Company, a Termination of Fourth Supplemental Lease and Cancellation, Discharge and Release of Fourth Supplemental Trust Indenture (collectively, the "Release Documents") and to deliver such Release Documents upon receipt of Certification by the Trustee that no Series 1995 Bonds remain Outstanding and upon receipt from the Company of the other consideration required under the Lease, and performance by the Company of all conditions precedent to exercise of its purchase option under the Lease.

**Section 8. Execution of Series 2005 Bonds and Agreements.** The Mayor or Vice Mayor of the City of Wichita, Kansas, is hereby authorized and directed to execute the Series 2005 Bonds and deliver the same to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor or Vice Mayor is hereby further authorized and directed to execute and deliver the Fifteenth Supplemental Trust Indenture, the Fifteenth Supplemental Lease, and the Bond Purchase Agreement for and on behalf of and as the act and deed of the City with such minor corrections or amendments thereto as the Mayor or Vice Mayor shall approve, which approval shall be evidenced by his or her execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance. The Mayor or Vice Mayor is hereby further authorized to execute the Release Documents, and the City Clerk, or other appropriate staff of the City, are authorized to deliver the Release Documents upon satisfaction of the requirements set forth in Paragraph 7 hereof. The City Clerk or the Deputy City Clerk of the City is hereby authorized and directed to attest the execution of the Series 2005

Bonds, the Fifteenth Supplemental Trust Indenture, the Fifteenth Supplemental Lease, the Bond Purchase Agreement, the Release Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 9. Pledge of the Project.** The City hereby pledges the 2005 Additions, and the net revenues therefrom to the payment of the Outstanding Bonds, including the Series 2005 Bonds, in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the Series 2005 Bonds shall be deemed to have been paid within the meaning of the Indenture, subject to any partial redemption or release of pledged property permitted by the Lease or Indenture.

**Section 10. Further Authority.** The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Series 2005 Bonds, the Fifteenth Supplemental Trust Indenture and the Fifteenth Supplemental Lease, all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

**Section 11. Effective Date.** This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the Issuer, and publication once in the official newspaper of the Issuer.

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PASSED by the Governing Body of the City of Wichita, Kansas this 20th day of December, 2005.

CITY OF WICHITA, KANSAS

By: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Karen Sublett, City Clerk

[SEAL]

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney